

HOUSE No. 2521

By Mr. Jones of North Reading, petition of Bradley H. Jones, Jr., and others relative to job creation incentives under the administrative tax laws of the Commonwealth. Revenue.

The Commonwealth of Massachusetts

PETITION OF:

Bradley H. Jones, Jr.	Susan Williams Gifford
Mary S. Rogeness	Robert S. Hargraves
George N. Peterson, Jr.	Karyn E. Polito
John A. Lepper	Paul K. Frost
Viriato Manuel deMacedo	Paul J.P. Loscocco
Elizabeth A. Poirier	Shirley Gomes
Donald F. Humason, Jr.	Michael J. Coppola
Susan W. Pope	

In the Year Two Thousand and Five.

AN ACT RELATIVE TO JOB CREATION INCENTIVES.

1 *Whereas*, the deferred operation of this act would tend to defeat
2 its purpose, which is to provide incentives for job creation in the
3 Commonwealth, therefore it is hereby declared to be an emer-
4 gency law, necessary for the immediate preservation of the public
5 convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 62C of the General Laws, as most recently amended by
2 chapter 65 of the acts of 2004, is hereby amended by striking out
3 section 67D in its entirety and inserting in place thereof the
4 following new section:—

5 Section 67D. (a) When used in this section, the following
6 words shall have the following meaning:

7 “Application year”, the calendar year for which an emerging
8 technology company submits the information required for a deter-
9 mination as to a jobs incentive payment.

10 “Business”, a corporation, sole proprietorship, partnership, lim-
11 ited liability company or any other form of business organization.

12 “Commissioner”, the commissioner of revenue.

13 “Eligible Jobs”, a number determined by first multiplying each
14 of the local jobs created by an emerging technology company
15 during a single calendar year by the job qualifier for that job, and
16 then totaling the number for all of the local jobs created.

17 “Emerging Technology Company”, a business organized and
18 existing under the laws of the commonwealth, whose primary pur-
19 pose is to do business within an emerging technology industry, as
20 defined by the Massachusetts development finance agency pur-
21 suant to subsection (c) of section 27 of chapter 23G.

22 “Full time employee”, a person who is employed for considera-
23 tion for at least 35 hours per week and whose salary is subject to
24 withholding as provided in chapter 62B.

25 “Job qualifier fraction”, in the case of either a full-time
26 employee or a part-time employee of an emerging technology
27 company, the figure that determines the extent to which that
28 employee is employed in the commonwealth during a single cal-
29 endar year. The job qualifier fraction for each employer shall be
30 determined by multiplying the following percentages together:
31 (i) the percentage of time that an employee worked while
32 employed by the company expressed as average hours worked per
33 week out of 35 hours, not to exceed 100 per cent; (ii) that employ-
34 ee’s time attributable to work in the commonwealth, as a portion
35 of that employee’s total work for the company; and (iii) the por-
36 tion of the year the employee worked for the company.

37 “Jobs incentive payment”, a business employment incentive
38 payment for emerging technology companies as provided for in
39 this section.

40 “Local jobs created”, the total number of jobs created by an
41 emerging technology company during a single calendar year in
42 which the new employees perform qualified services at not less
43 than 1 in-state location, including jobs performed by persons that
44 are transferred within the company to work at an in-state location
45 from a location based outside the state.

46 “Part-time employee”, a person who is employed for considera-
47 tion for less than 35 hours a week and whose salary is subject to
48 withholding as provided in chapter 62B.

49 “Payment years”, in the case of an emerging technology com-
50 pany that is determined to be eligible for a jobs incentive pay-
51 ment, the 3 calendar years following the application year.

52 “Qualified services”, direct production manufacturing services
53 performed by an employee of an emerging technology company
54 during a calendar year.

55 “Weighted average employment”, for a calendar year, the total
56 number of jobs maintained by an emerging technology company
57 in which the employees performed employment services at not
58 less than 1 in-state location. The number is to be determined by
59 first multiplying each of the individual jobs maintained by the
60 company for that year by the job qualifier fraction for that job and
61 then totaling the number for all such jobs.

62 (b) An emerging technology company that creates 10 or more
63 eligible jobs in the commonwealth during a single calendar year
64 shall be entitled to a jobs incentive payment if its weighted
65 average employment for such year reflects a net increase of at
66 least 10 jobs over the company's weighted average employment
67 for the prior calendar year. The jobs incentive payment shall be
68 equal to 50 per cent of the amount paid by the company as salary
69 attributable to eligible jobs created by the company in such year to
70 the extent that the salary was subject to Massachusetts with-
71 holding pursuant to chapter 62B for such year, multiplied by the
72 applicable Massachusetts income tax rate for such salary. For the
73 purposes of this provision, an eligible job shall be deemed created
74 in the commonwealth on the first day for which Massachusetts
75 withholding is required in connection with the compensation paid
76 to the employee.

77 (c) The jobs incentive payment shall be paid to an emerging
78 technology company in 3 equal installments in each of the 3 cal-
79 endar years commencing with the calendar year subsequent to the
80 application year. If, for the first or second payment year, the com-
81 pany's weighted average employment falls below its weighted
82 average for the application year, the company shall be disqualified
83 from receiving its second installment payment; provided, that it
84 may still receive its third installment payment if its weighted
85 average employment for its second payment year is above its
86 weighted average employment for the application year.

87 (d) An emerging technology company that seeks a jobs incen-
88 tive payment shall apply to the commissioner to receive such pay-
89 ment on a form to be prescribed by the commissioner. This form
90 shall reference the necessary information concerning the eligible
91 jobs created by the company in the commonwealth during the
92 application year and also the company's weighted average
93 employment for such year and the prior calendar year. The com-
94 missioner shall advise the company of his determination in
95 writing.

96 (e) Not later than March 1 of each calendar year for which an
97 emerging technology company has been approved to receive a
98 jobs incentive payment, the company shall submit to the commis-
99 sioner, in a form prescribed by the commissioner, the information
100 necessary to evaluate the company's prior year weighted employ-
101 ment average.

102 (f) An emerging technology company that has previously been
103 approved to receive a jobs incentive payment is entitled to re-
104 apply for an additional payment for a second or third application
105 year. In such cases, the company may be entitled to receive a jobs
106 incentive payment that relates to different application years in the
107 same calendar year. When a company has previously been granted
108 a jobs incentive payment for 3 application years, it shall not
109 request an additional jobs incentive payment.

110 (g) The commissioner shall issue payments, as authorized in
111 subsection (b), without further appropriation. The commissioner
112 may issue rules and regulations as necessary or helpful to imple-
113 ment this section, including rules and regulations to ensure com-
114 pliance with this section.